



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/014,460	01/28/98	SWISZCZ	4618.00

020686
DORSEY & WHITNEY
SUITE 4400
370 SEVENTEENTH STREET
DENVER CO 80202-5644

IM62/1012

EXAMINER

BAHTA, A

ART UNIT

PAPER NUMBER

1775

DATE MAILED:

10/12/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/014,460

Applicant(s)
Paul Swiszc

Examiner
Abraham Bahta

Group Art Unit
1775



☒ Responsive to communication(s) filed on May 1, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-14 is/are pending in the application.

Of the above, claim(s) 10-14 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-9 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1775

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9, drawn to an article, classified in class 428, subclass 116.
- II. Claims 10-14, drawn to a method, classified in class 156, subclass 197.

The inventions are distinct, each from the other because:

Inventions Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a different process such as by folding stirps of materials into Z configuration which is then stacked in layers that are adhered together.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications, restriction for examination purposes as indicated is proper.

During a telephone conversation with Reed Heimbecher on 10/08/99 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-14 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Art Unit: 1775

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (USP 4,685,986).

Anderson '986 teaches an expandable collapsible honeycomb structure formed from two continuous length of materials wherein the materials are connected together by separate strip material disposed between the adjacent cells and extending longitudinal of the cells. The strip material can be used to connect the two piece of material together in spaced relationship or non-spaced relationship to form a tubular cell structure. See col. 5, lines 44-50 and Figs. 1 and 3.

Art Unit: 1775

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson '986.

As discussed above Anderson teaches an expandable collapsible honeycomb structure formed from two continuous length of materials wherein the materials are connected together by separate strip material disposed between the adjacent cells.

Other embodiments disclosed in the dependent claims such as the relative width and/or length of the carrier strip have been considered. Although, the reference is silent with respect to the relative width or/and length to the other two strip materials, it would have been an obvious matter of design choice to vary the width of the connecting strip, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. These dimensions are normally selected according to manufacturer's specifications and not an important or critical aspect of the present invention. Thus, the skilled artisan would be capable in the selecting the desired size depending on the intended use of the structure.

Art Unit: 1775

Any inquiry concerning this communication should be directed to Abraham Bahta at telephone number (703) 308-4412. The Examiner can normally be reached Monday-Friday from 9:30 AM -6:00 PM (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor Deborah, Jones, can be reached on (703) 308-3822.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



A. Bahta

10/09/99



DEBORAH JONES
SUPERVISORY PATENT EXAMINER